IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 2572 of 2002
To
FIRST APPEAL No. 2580 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SPL.LAQ OFFICER AND OTHERS
Versus
BHIKHAJI HARJI AND ANOTHER

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Appearance :
MR ND GOHIL, AGP for Appellants.
RULE SERVED for Respondent Nos. 1 - 2,2.2.2
MR KM SHETH for Respondent Nos. 1 - 2,2.2.3
None for Respondent No. 2.
NOTICE SERVED for Respondent No. 2.2.3.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 14/08/2006

ORAL JUDGMENT

Since common point is involved in all these appeals, all these

appeals are disposed of by this common judgement.

By filing these appeals under Section 54 of the Land Acquisition Act read with Section 96 of the Civil Procedure Code through Special Land Acquisition Officer, the State Government has challenged the judgement and award declared by 3rd Joint Civil Judge (S.D.) Bharuch, dated 1st May, 2001 in Land Reference Case Nos.676/1989 to 684/1989. By the aforesaid judgement, learned Judge of the Reference Court has fixed the market value of the land in question at Rs.900/- per Are. Accordingly, learned Judge of the reference Court has granted additional compensation against which these appeals are preferred.

For an irrigation scheme, namely, Vaghpura Minor, certain agricultural lands were sought to be acquired and for that purpose notification under Section 4 of the Land Acquisition Act was issued on 24-12-1987, which was followed by Section 6 notification dated 25-2-1988. Subsequently, award was declared by the land acquisition officer on 25-11-1988. By said acquisition proceedings, agricultural lands of claimants situated in village – Tejpor, Taluka – Jhagadia, District – Bharuch were acquired. The Special Land Acquisition Officer awarded Rs.125/- per Are, however, the claimants were not satisfied with that amount, as according to them, appropriate value of the land is Rs.750/- per Are. Since the claimants were not satisfied by the said award, at their instance references were preferred before the District Court, which were numbered as Land Reference Case Nos.676/1989 to 684/1989.

After considering the evidence on record, learned Judge of the Reference Court has fixed the value of the land at Rs.900/- per Are.

Being aggrieved by the said judgement, State Government has preferred these appeals through Special Land Acquisition Officer. It is required to be noted that on behalf of the claimants one Parsottambhai Bhikhabhai was examined at Exh.13. Said witness has stated in his evidence that land in question is fertile land and various crops are being taken from it. Said witness has said that there is a tube-well in his land and he earns Rs.15,000/- per year. On behalf of the claimants reliance is placed on the judgement of the Reference Court delivered in Land Acquisition Reference No.685/1989 to Land Acquisition Reference No.697/1989. In those cases, land of village – Raisingpura were acquired and the Reference Court has fixed the value of the land at Rs.900/- per Are. Said village – Raisingpura is adjoining to the village – Tejpor, where the lands of the present respondents are situated. Judgement delivered in aforesaid Land Reference Cases is at Exh.16 on record.

In the aforesaid case, notification under Section 4 of the Act was issued on 31st December, 1987, which is almost of identical time when notification under Section 4 of the Act was issued in the present case.

Mr.N.D.Gohil, learned AGP is not in a position to say as to how aforesaid judgement of the Reference Court is not relevant in deciding the market value of the land in question.

In that view of the matter, market value fixed by the learned Judge of the Reference Court is just and proper, however, it is required to be noted that in the instant case, the claimants have demanded Rs.750/- per Are, as against that learned Judge of the Reference Court has granted Rs.900/- per Are. Therefore, in my view, learned Judge should

not have granted the amount in excess of Rs.750/-, which was the demand of the claimants. Therefore, the impugned judgement is required to be modified to that extent by assessing the value of the land at the rate of Rs.750/- per Are, which was the demand of the claimants.

Accordingly, all these appeals are partly allowed. It is held that the claimants are entitled to get Rs.750/- per Are and accordingly, the claimants are entitled to additional amount of interest, solatium etc., on the aforesaid amount of Rs.750/- per Are.

Accordingly, all these appeals are partly allowed with no order as to costs.

Record and Proceedings to be sent back.

(P.B.MAJMUDAR, J.)

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